



UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of  
Michael Abler  
Application No. 10/003,552  
Filed: October 24, 2001  
For: **METHOD AND APPARATUS FOR  
SCROLLING AN IMAGE TO BE PRESENTED  
ON A DISPLAY UNIT**

**MAILED**

APR 06 2005

DIRECTOR'S OFFICE  
TECHNOLOGY CENTER 2800  
**DECISION ON PETITION  
TO WITHDRAW HOLDING OF  
ABANDONMENT**

This is in response to the Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181, filed November 3, 2004. No fee is required.

The application is held as abandoned for failure to timely file the issue fee in response to the Notice of Allowance and Issue Fee due communication mailed March 22, 2004. A Notice of Abandonment has not yet been mailed.

Petitioner states that they did not receive the Notice of Allowance mailed March 22, 2004. In support thereof, petitioner provides a copy of their docket records and provides a statement that the file jacket and docket records were searched and that the Notice of Allowance was not received.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The petition complies with all of the requirements set forth above, with the exception that the person signing the petition is not a recognized practitioner of record. Accordingly, the petition fails to meet the requirements set forth above.

Decision on Petition

However, a review of the file record indicates that the Notice of Allowance was returned to the Office as undeliverable. The correspondence address on the Notice of Allowance mailed on March 22, 2004 matches the address confirmed in the subject petition. Thus, there was obviously an irregularity in mailing of the Office action.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that the practitioner also failed to receive the Notice of Allowability. The Notice of Allowability will also be re-mailed with the new Notice of Allowance.

The application file is being forwarded to the group technical support staff for re-mailing of the Notice of Allowance and Notice of Allowability originally mailed July 23, 2004. The time period for payment of the issue fee will be reset to run from the mailing date of the new Notice of Allowance and Issue Fee due.



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